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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/827,185

04/19/2004

Mike Musgrave

COS-889

2436

25264 7590 05/19/2008

FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON, TX 77267-4412

EXAMINER

LEE, RIP A

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

05/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	Application No. 10/827,185	Applicant(s) MUSGRAVE ET AL.	
	Examiner RIP A. LEE	Art Unit 1796	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

/VASUDEVAN S. JAGANNATHAN/
Supervisory Patent Examiner, Art Unit 1796

/Rip A. Lee/
Art Unit 1796

Continuation of 11. does NOT place the application in condition for allowance because:

The rejection of claims 1, 3-9, 11-18, 20-24 and 26-34 over Su et al. (U.S. 7,078,463) in view of McCullough et al. (U.S. 6,015,854), set forth in the final office action dated February 18, 2008 has been maintained. Applicant submits that Su et al. discloses a composition containing three polymers and the presently claimed invention consists essentially of two polymers and clarifier which exhibit basic and novel characteristics of clarity and EML ratio. First, Applicant has the burden of showing that the introduction of additional components (specifically, the low level of alpha olefin-propylene random copolymer component shown in Su et al.) would materially change the characteristics of applicant's invention. See MPEP 2111.03. Secondly, claims 12, 21, 27, 32, 37, and 34, drawn to compositions/articles and processes of making compositions/articles, recite the inclusive transitional phrase "comprising," which would not exclude unrecited components or a step of mixing/combining/incorporating an unrecited component. Thirdly, the recited properties are conditional and are exhibited when the composition of interest is formed into a 22 mil sheet. Again, Applicant bears the burden to establish compositions of the prior art, when formed into said sheet, do not exhibit the claimed features.

Applicant further submits that one having ordinary skill in the art would not be motivated to incorporate clarifying agent, as per McCullough et al., into the film compositions of Su et al. because materials in the working examples of Su et al. already exhibit minimal haze without use of clarifying agent. It is noted that film is of minimal haze, and as noted by Applicant, that property pertains to film of certain thickness. One having ordinary skill in the art would have been motivated to incorporate clarifying agent to obtain clear films with better clarity and less haze for thicker films, embodiments of which are fully enabled by the inventors.

In view of these considerations, the rejection of claims has been maintained.